

	Rooms and Other Special Const.								
	Security Access and Surveillance	C09							
	Fire Suppression, Detection and Alarm Systems	C17							
	ATM Enclosures	F04							
14000 Conveyin g Systems		C07							
15000 Mechanic al		C05							
16000 Electrical									
	Electrical Power, Distribution and Lighting	C04							
	Telecom. and Data Equipment & Cabling	C16							
	Exterior Site Lighting	C22							
Fee		C02							

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Amount of Original Contract: _____

Work Completed to Date: _____

Extras to Contract: _____

Total Retained: _____

Total Contract and Extras: _____

Net Amount Earned _____

Credits to Contract: _____

Previously Paid: _____

Adjusted Total Contract: _____

Net Amount Due this Payment: _____

APPLICATION FOR PAYMENT AND SWORN STATEMENT
FOR CONSTRUCTION CONTRACTOR AND SUBCONTRACTOR TO OWNER
(CONTINUED)

The undersigned, _____, being first duly sworn on oath and says

that he is President of _____, contractors for

(Project Title) _____

(Project Address) _____

(Agent) _____

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That for the purposes of this work the foregoing order have been placed and the foregoing parties subcontracted with and these have furnished materials or have provided labor, or both, for said project.

That the amount of such order or subcontract is as stated above and that there is due and to become due them respectively, the amounts set opposite their names for materials or labor or both.

That this statement is made in compliance with to statutes relating to Mechanics Liens and for the purpose of procuring from Owner FINAL/PARTIAL payment in accordance with the terms of the contract and is a full, true and complete statement, of all parties furnishing labor and/or material, and of amounts paid, due and to become due them.

Subscribed and sworn to before me
this ____ day of _____, ____

Notary Public

Construction Contractor:

By: _____
Name: _____
Title: _____

SCHEDULE 8.06

CERTIFICATE OF SUBSTANTIAL COMPLETION

CONFIDENTIAL

Date of Issuance: _____

Project Name: _____

Description: _____

Work Location (s): _____

Architect/Engineer: _____

Construction Contractor's Representative: _____

Phone: _____

Owner's Project Manager: _____

Phone: _____

Construction Contractor Contract No: _____

Date: _____

Original Punch List Date: _____

Previous Revision Date _____

TO: (Owner)

DESIGNATED PORTION OF THE PROJECT SHALL INCLUDE: [add description of designated portion]

The work comprising the above designated portion of the project performed under the Contract Documents has been reviewed and is hereby found to be substantially complete. The Date of Substantial Completion of said Work is hereby established as _____.

DEFINITION OF DATE OF SUBSTANTIAL COMPLETION

The Date of Substantial Completion of said Work is the date certified by the Architect/Engineer when construction is sufficiently complete in accordance with the Contract Documents so Owner can occupy and utilize beneficially said work for the use for which it is intended.

PUNCH LIST

A Punch List of items to be completed, corrected or delivered, initially prepared by Construction Contractor and revised by the Architect/Engineer and verified or amended by _____ as appropriate, is attached hereto as Appendix 1. The failure to include any items on such list does not alter the responsibility of Construction Contractor to complete all work in accordance with the Contract Documents. The date of the commencement of warranties for said work and for the items on the attached Punch List will be the date Construction Contractor receives final payment under and in accordance with the Contract Documents.

ARCHITECT/ENGINEER

BY: _____

DATE: _____

Construction Contractor will complete or correct the work and deliver all items in accordance with the requirements of said Punch List within _____ () days from the Date of Substantial Completion.

CONSTRUCTION CONTRACTOR

BY: _____

DATE: _____

SCHEDULE 10.02

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CHANGE ORDER FORM

Date: _____

Change Order No. _____

(Consecutively Numbered)

Contract No.: _____

Project No.: _____

Location (Building/Floor): _____

CONTRACT CHANGE ORDER

Gentlemen: In accordance with this change we hereby adjust your contract as follows:

Original Contract Amount	\$	_____
Previous Contract Amount	\$	_____
Add for this Change	\$	_____
Deduct for this Change	\$	_____
Adjusted Contract Amount	\$	_____

Proceed with this work immediately.

The basis of this adjustment is _____ (Describe) _____

(Examples)

Proposed Change Order(s) dated MM/DD/YY (List) with corresponding backup.

Bulletin Number(s) dated MM/DD/YY (List) with corresponding backup.

Construction Field Order(s) dated MM/DD/YY (List) with corresponding backup.

Backup shall include detailed breakdown by Construction Contractor and all sub contractors.

Verify Hourly Rates and Unit Prices per Project Agreement (if established).

Review Change Order Values with Prime Architect/Engineer's Budget estimate for proposed change(s).

If Time & Material Change Order, ALL signed time tickets (signed by designated representatives of the General Construction Contractor and Owner's Project Manager) only will be accepted.

Change Orders may represent change in TIME as well as COST and must be taken into consideration during review and approval.

(Approvals)

Construction Contractor _____

Authorized/Designated Representative Print Company's
and Signer's Name below

Owner _____

Signed By Owner's Project Manager (Authorized Signer
for Invoices)

Customer _____

Authorized (User signature level for total of
ADD/DEDUCT creating the adjustment of this Change
Order providing that the total is within the Project's
approved budget.If tenant related, Authorized Signature must Owner's
Records for Client's Cost Center Print Authorized
Signer's Name and Title Below Line. Add Lines if
hierarchy of signing authority is required

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SINGLE PROJECT
CONSTRUCTION SERVICES AGREEMENT
CONTRACT NO.

Pre-bid meeting will/will not be held. If applicable, the pre-bid meeting will occur at _____ A.M./P.M. on _____, _____, at **CDC #2 site, Brandywine, Delaware**

When completed, return five (5) executed copies of this Single Project Construction Services Agreement if by U.S. mail addressed to Owner c/o **Tishman Construction Corporation of Maryland, 666 Fifth Avenue, New York, New York 10103**, Mail Code _____; if hand delivered to Owner c/o _____, _____ Floor, _____, in each case for receipt by Owner by or before _____ A.M./P.M. on _____.

Owner:

Banc One Building Corporation
 1 Bank One Plaza
 Mail Code IL1-0505
 Chicago, IL 60670-0503

Construction Contractor:

Owner's Project Manager:

Karl Wm. Auwarter, VP, Real Estate

Construction Contractor's Key Staff Members:

Superintendent: _____
 Assistant Superintendent: _____

Building Owner/Manager: None

Site:

Bank One Core Data Center #2
4001 Governor Printz Blvd.
Brandywine, New Castle County, Delaware

Other Key Staff:

<u>Title</u>	<u>Name:</u>
_____:	_____
_____:	_____
_____:	_____
_____:	_____
_____:	_____

Construction Manager:

Tishman Construction Corporation of Maryland
 666 Fifth Avenue
 New York, New York 10103-0256

Construction Contractor's Authorized Signatories:

1. _____
 2. _____
 3. _____
 4. _____

This Single Project Construction Services Agreement is made as of the _____ day of _____, ("Agreement") between Owner and Construction Contractor. This Agreement, including all exhibits attached hereto, together with all drawings, specifications and modifications issued after the execution of this Agreement and delivered to Construction Contractor, are herein called the "Contract" and the "Contract Documents". Owner and Construction Contractor agree to the terms and conditions set forth in the Contract Documents.

- The project ("Project") consists generally of, and a general description of the Work is (and, if applicable, a more detailed description of the Work is set forth on Exhibit C), as follows: _____

- Construction Contractor acknowledges it received the plans and specifications that are listed on, and, as applicable, a more detailed description of the Work as set forth on, Exhibit C hereto.

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3. Construction Contractor's obligations under this Agreement will/will not (strike through one) require payment and performance bonds as set forth in Section 6.04 of the General Conditions attached hereto as Exhibit G ("General Conditions"). If no selection is clearly made in the preceding sentence, then payment and performance bonds will be required as set forth in Section 6.04 of the General Conditions.
4. Liquidated damages will/will not (strike through one) be applicable to the Project as set forth in Section 7.03 of the General Conditions. If required, the "Per Day Liquidated Damage Amount" is \$ N/A.
5. The "Contract Sum" is \$ _____. The Contract Sum (subject to additions and deductions by change orders as provided by the Contract Documents) includes all costs and expenses related to the Work incurred by or on behalf of Construction Contractor and any costs or expenses in excess of the Contract Sum in anyway related to the Work or the Contract Documents shall be paid by Construction Contractor. Additionally, upon final completion of the Work at the time of the final payment being made to Construction Contractor, all costs associated with unused allowances and contingencies will be adjusted and returned to the Owner.
6. Written notice shall be deemed to be duly served if served to the Owner or Construction Contractor, as the case may be, at the respective address set forth below in accordance with Section 6.03 of the General Conditions:

If to Owner, addressed to:

Bank One301 N. Walnut StreetWilmington, DE 19801Attention: Karl Auwarter

If to Construction Contractor, addressed to:

Attention: _____

With a copy to:

Tishman Construction Corporation of
Maryland

666 Fifth Avenue

New York, New York 10103-0256

Attention: William Stanton

7. Construction Manager hereby represents to Construction Contractor that (i) Owner has retained Construction Manager to act as Owner's construction manager to arrange for the construction of the Project; and (ii) Construction Manager has full power and authority and is duly authorized to execute and deliver this Contract with and to Construction Manager upon the terms and conditions set forth herein. All communications from Owner to Construction Contractor shall be delivered either (i) to Construction Manager with instructions to forward such communications to Construction Contractor, or (ii) directly to Construction Contractor with a simultaneous notification to Construction Manager. All written approvals and actions required of or permitted to be taken by Owner under the Contract shall be effective if executed by either Owner or by Construction Manager acting on Owner's behalf, and Construction Contractor shall be permitted to rely on all such written approvals unless and until Owner (and not Construction Manager) notifies Construction Contractor in writing to the contrary. Construction Contractor shall be entitled to rely on information communicated through the Construction Manager and work with the Construction Manager until Owner provides written notice of the termination of such Construction Manager's responsibilities or a substitution of such Construction Manager.

This Agreement shall be effective only when (i) Owner executes and delivers this Single Project Construction Services Agreement to Construction Contractor, (ii) all appropriate blanks contained herein are completed, and (iii) each of the Exhibits A, B, C, D, E, F, and G (each of which is hereby incorporated herein) has been completed and attached hereto.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

CONSTRUCTION CONTRACTOR:

FIRM: _____

By: _____

Name: _____

Title: _____

OWNER:

BANC ONE BUILDING CORPORATION,
an Illinois Corporation

By: Tishman Construction Corporation of Maryland,
as Banc One Building Corporation's agent and
construction manager

By: _____

Name: William Stanton

Title: Senior Vice President

LIST OF EXHIBITS
TO
SINGLE PROJECT CONSTRUCTION SERVICES AGREEMENT

EXHIBIT A	COMPLETION SCHEDULE
EXHIBIT B	SCHEDULE OF VALUES AND ANTICIPATED DRAW SCHEDULE
EXHIBIT C	PLANS AND SPECIFICATIONS
EXHIBIT D	WORK AREA
EXHIBIT E	MAXIMUM CHANGE ORDER RATES FOR OVERHEAD, PROFIT, CONTRACTOR'S FEE, AND GENERAL CONDITIONS
EXHIBIT F	RATES AND UNIT PRICES
EXHIBIT G	GENERAL CONDITIONS TO SINGLE PROJECT CONSTRUCTION SERVICES AGREEMENT

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EXHIBIT A

COMPLETION SCHEDULE

Note: This Schedule must include the dates for Substantial Completion and Final Completion.

Section "E" in attached Rider "A", dated

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EXHIBIT B

SCHEDULE OF VALUES AND ANTICIPATED DRAW SCHEDULE

Note: These schedules must specifically separate out the Cost of the Work.

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EXHIBIT C

PLANS AND SPECIFICATIONS

Attached Rider "B", List of Drawings and Specifications, dated

Attached Rider "A", General Addendum, dated

EXHIBIT D

WORK AREA

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**4001 Governor Printz Blvd.
Brandywine, New Castle County, Delaware**

Site Logistics Plan, undated, attached

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EXHIBIT E

MAXIMUM CHANGE ORDER RATES FOR OVERHEAD,
PROFIT, CONTRACTOR'S FEE, AND GENERAL CONDITIONS

- | | |
|---|---|
| 1. Subcontractor may add to its "on-site" cost for extra Work. | <u>15 %</u> for all overhead, profit, fee and general conditions items |
| 2. Construction Contractor may add to its "on-site" cost of extra Work when such Work is performed directly at the site with its own personnel, equipment and materials, it being agreed by Construction Contractor that it will not subcontract out work when it would be more efficient (both in terms of time and money) for Construction Contractor's own personnel to perform such work. | <u>0 %</u> for all of Contractor's Fee and general conditions items related to such Change Order |
| 3. Construction Contractor may add an additional percentage to subcontractor's costs for administration and supervision of extra Work by a subcontractor. | <u>6 %</u> for all of Contractor's Fee and general conditions items related to such Change Order |
| 4. Construction Contractor shall deduct over and above his "on-site" cost of deleted Work when such Work would have been performed directly at the Site with its own personnel, equipment and materials. | <u>15 %</u> for all of Contractor's Fee and general conditions items related to such Change Order |
| 5. Construction Contractor shall deduct an additional percentage over and above subcontractor's credit for administration and supervision of extra Work by a subcontractor. | <u>6 %</u> for all of Contractor's Fee and general conditions items related to such Change Order |

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EXHIBIT F

RATES AND UNIT PRICES

Item

Price

Attached Rider "C" – Alternates and Unit Prices, dated

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EXHIBIT G
GENERAL CONDITIONS
TO
SINGLE PROJECT CONSTRUCTION SERVICES AGREEMENT

These General Conditions are attached to and made a part of the Single Project Construction Services Agreement ("Agreement"). All terms defined either in the Agreement or in these General Conditions shall have the meaning ascribed thereto wherever used in the Contract Documents. Terms and abbreviations not specifically defined in the Contract Documents which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

ARTICLE I WORK

1.01 Construction Contractor shall perform or cause to be performed, in a first class manner and in accordance with the Contract, all work set forth in, contemplated by or reasonably inferable as being necessary to produce the intended results from, the plans and specifications listed on Exhibit C to the Agreement (as supplemented and modified by Owner throughout the design process), including all labor and materials to complete the general description of such work contained in the Agreement and all movable furnishings specifically identified as being the responsibility of or to be performed by Construction Contractor on such plans and specifications (as supplemented and modified by Owner throughout the design process) and excluding movable furnishings specified or indicated on such plans and specifications to be excluded or to be the responsibility of Owner or Owner's other contractors or consultants (collectively all such labor, materials, and services to be provided by Construction Contractor are herein called the "Work"). In the event of any discrepancy between large-scale plans and small-scale plans, the large-scale plans shall govern. The foregoing shall not relieve Construction Contractor of Construction Contractor's responsibility to advise Owner of any inconsistencies in any of the plans and specifications which a fully competent first class contractor could reasonably be expected to discover upon review of the plans and specifications. Except as set forth above, if any of the Contract Documents imposes a different or greater obligation or limitation upon Construction Contractor than another Contract Document, the Contract Document imposing the greater obligation or limitation on Construction Contractor shall govern and prevail. Plans and specifications which are either (i) necessary for the proper execution and completion of the Work or for the proper operation of the completed improvements or (ii) consistent with and reasonably inferable from the plans and specifications attached hereto as Exhibit C (as supplemented and modified by Owner throughout the design process) as being part of the scope of the Work may hereafter be furnished and will be incorporated in Exhibit C and into the Work at no additional cost to Owner. Construction Contractor acknowledges that it has participated and will participate in meetings with Owner and its design professionals and Construction Contractor has been given ample opportunity to obtain a thorough understanding of the intended final product and fully reviewed the plans and specification listed on Exhibit C, and thus Construction Contractor hereby agrees that no increase in the Contract Sum shall result unless a change in scope occurs as evidenced by a written change order executed by Owner and Construction Contractor. Construction Contractor shall participate in the value engineering by proposing appropriate and suitable alternatives to achieve the intended design, functionality and quality in a manner that will best enable the Work to be completed within the budget and schedule therefor and shall cooperate and work with the Owner and its consultants as part of an integrated team to maximize the quality of the improvements contemplated by the Work and its components and systems while minimizing the cost of the Work and meeting the requirements of the schedule therefor.

1.02 As between Owner and Construction Contractor, all plans and specifications for the Work and other material related to the Work prepared by Construction Contractor or furnished to Construction Contractor by Owner are and shall remain Owner's property, and shall be used by Construction Contractor only with respect to the Work. Construction Contractor acknowledges that a confidential relationship has been established between Owner and Construction Contractor and that Owner may communicate to Construction Contractor certain confidential information to enable Construction Contractor to render the services required in the Contract. Construction Contractor agrees (i) to treat and to obligate its consultants, employees, and subcontractors to consider and treat all information as secret and confidential, and (ii) not to disclose or issue any information or make available any reports, recommendations and/or conclusions in connection with the Work or the Site, which Construction

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Contractor may make to Owner, or any drawings, to any person, firm or corporation or use the same in any manner whatsoever without first obtaining Owner's prior written approval.

1.03 The Contract Documents represent the entire and integrated agreement between Owner and Construction Contractor and shall be deemed to supersede all prior negotiations, representations or agreements, whether written or oral.

ARTICLE 2 OWNER

2.01 To the extent required by Construction Contractor to perform the Work, Owner shall furnish descriptions of all surveys describing the physical characteristics, legal limitations and utility locations for the area within which the Work is to be performed and where materials are to be stored, which Work areas within the Site are limited to the areas designated as such on Exhibit D to the Agreement ("Work Area"). Construction Contractor shall confine its activities at the Site to the Work Area. All other grades, lines, levels, benchmarks, courses and distances shall be established and maintained by Construction Contractor.

2.02 Unless otherwise provided in the Contract Documents, Construction Contractor will be furnished with, free of charge, one set of prints and one reproducible set of all drawings comprising the plans and specifications and one set of the specifications. Owner shall be responsible for all utility connection charges and tap-in fees, including excess capacity fees, meter installation charges or the like.

2.03 If Construction Contractor is in default of any of its obligations under the Contract Documents, and such failure or default continues for seven days after written notice from Owner, Owner may order Construction Contractor immediately to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Construction Contractor or any other person or entity. This right shall be in addition to, and not in restriction of, Owner's other rights under the Contract Documents.

2.04 The Project Manager identified in the Agreement, or any substitute designated as such in writing from Owner to Construction Contractor, is Owner's representative with full power to bind Owner.

2.05 Owner reserves for itself and its representatives the right of access to any part of the Work at any time for the purpose of observing or testing or to install other work either with its own forces or with other contractors. Such access is not to be construed to mean partial occupancy by Owner.

2.06 Owner reserves the right to designate, by notice to Construction Contractor (if not so designated on Page 1 of the Agreement) one or more persons or entities that is the owner or manager of the Site or the existing building within which the Work is to be performed (if any, the "Building") as a Building Owner/Manager. To the extent a Building Owner/Manager is so designated, all provisions of this Contract relating to the Building Owner/Manager shall apply, and mean and refer, to the persons or entities so designated. To the extent a Building Owner/Manager is not so designated, no force or effect shall be given to those provisions to the extent related to the Building Owner/Manager.

2.07 Owner reserves the right to engage third parties, including architects and engineers, to assist Owner in various capacities related to the Work and Contract Documents, including in the administration of the Contract Documents. Construction Contractor agrees to cooperate with all such consultants, including architects and engineers, in all aspects of the Work and Contract Documents, including the administration thereof. Construction Contractor acknowledges and agrees that Owner may grant conditional approval of or require the approval of any such consultant, including any architect or engineer, as a condition to Owner's granting any consent or approval required of Owner under the Contract Documents. Construction Contractor shall cooperate with such processes required by Owner to obtain such consultant's consents.

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ARTICLE 3 CONSTRUCTION CONTRACTOR

3.01 Intentionally Omitted.

3.02 Construction Contractor shall perform the Work in accordance with all laws, ordinances, codes, rules and regulations, orders and decisions of all government authorities having jurisdiction over the Site ("Government Requirements"), and otherwise perform Construction Contractor's obligations contemplated in the Contract Documents. Construction Contractor acknowledges that Construction Contractor has visited the Site, examined all conditions affecting the Work, and is fully familiar with all of the conditions thereon and affecting the Work and the Work Area. Construction Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved (or approved as noted) shop drawings, product data or samples for such portion of the Work.

3.03 Construction Contractor shall employ a competent project superintendent, necessary assistants, and staff, as necessary for the proper administration, coordination and supervision of the Work, all approved by Owner in writing by either being listed in the Agreement or by separate written approval accepted by or on behalf of Owner. Owner's approval of any such person (or of any substitute for such person) shall not relieve Construction Contractor of or otherwise limit or affect Construction Contractor's obligation to employ competent persons of sufficient skill and experience to perform their assigned responsibilities in accordance with the standards and requirements set forth in the Contract. Construction Contractor's project superintendent shall be in attendance at the Work Area for the duration of the Work and such project superintendent's duties shall not be diminished without the prior written consent of Owner. Construction Contractor's project superintendent shall represent Construction Contractor and all communications given to such project superintendent shall be as binding as if given to Construction Contractor. Upon Owner's request, any communication from such project superintendent shall be confirmed in writing by an authorized partner, member or officer, as the case may be, of Construction Contractor. Construction Contractor's project superintendent shall have authority to furnish estimates and to approve field changes and shall attend meetings with Owner at such times and places as shall be requested by Owner to report on the progress of the Work or otherwise to consult with Owner. Construction Contractor's project superintendent and other members of Construction Contractor's staff identified on page 1 of the Agreement or separately approved by Owner as provided above shall not be changed without the consent of Owner unless such person leaves the employ of Construction Contractor, in which event the substitute must first be approved in writing by Owner. If Owner gives Construction Contractor notice Construction Contractor's project superintendent or any other of Construction Contractor's personnel identified on page 1 of the Agreement (or any person that replaces any of the foregoing) has failed to perform his or her responsibilities in accordance with the standards set forth in this Contract and such failure is not remedied within ten (10) days of such notice, Construction Contractor shall, if requested by Owner, promptly replace such person with a person having the competence, skill and experience necessary to perform such responsibilities and approved by Owner. Those individuals who are the authorized signatories for Construction Contractor are also listed in the Agreement.

3.04 Construction Contractor shall (a) supervise and direct the Work using Construction Contractor's best professional skill and attention, and (b) be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. Construction Contractor shall furnish its best skill and judgment, employing first class professional standards, and shall cooperate with the other parties involved in the Work in furthering the interests of Owner. Construction Contractor accepts sole responsibility for the acts and omissions of Construction Contractor's employees, subcontractors and their respective agents and employees. Construction Contractor shall (i) at all times enforce strict discipline and good order among Construction Contractor's employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him; (ii) confine Construction Contractor's equipment, apparatus, materials, and operations of its workmen and subcontractors within limits allowed by Owner and Building Owner/Manager and not unnecessarily burden the Work Area with materials; (iii) correct, at Construction Contractor's expense, damage to property resulting from the Work; and (iv) if the Work requires a temporary shut-down of a service in the Building or any other improvements on the Site, cause such Work to be accomplished during other than normal hours and coordinated with Owner and Building Owner/Manager at Construction Contractor's expense; provided further that Construction Contractor shall give adequate notice to Owner and Building Owner/Manager that Construction Contractor will require a shut-down.

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3.05 (a) Construction Contractor shall not use, in connection with the Work, any material containing asbestos as defined by the United States Environmental Protection Agency 40 CFR CH. I (7-1-00 Edition) Subpart M-National Emission Standard for Asbestos and the Occupational Safety and Health Administration, Part 1910: Occupational Safety and Health Standards, Subpart Z: Toxic and Hazardous Substances, Standard 1910.1001: Asbestos.

(b) Construction Contractor shall not use, in connection with the Work, any hazardous waste, toxic substance or related materials, including substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9061 et seq., Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sec. 1802, and the Resource Conservation Act and Recovery Act, as amended, 42 U.S.C. Sec. 6901 et seq. ("Hazardous Materials") in such manner as would violate any Government Requirements or would cause any damage or a risk of any damage to the environment, or in such a manner as to leave any residue which could be hazardous to persons or property or cause liability to Owner.

3.06 Construction Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin or ancestry. Construction Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age or national origin or ancestry. Construction Contractor shall comply with, and shall cooperate with Owner and other contractors and subcontractors in connection with compliance with, the regulations of the Occupational Safety and Health Act of 1970, as amended ("OSHA"), or any similar state law which is applicable. If any Construction Contractor's employee working on the Work files a charge of noncompliance with OSHA, Construction Contractor shall notify Owner's Project Manager promptly upon receiving notice of such charge.

3.07 (a) The Contract Sum is based on the Completion Schedule attached to the Agreement as Exhibit A (said schedule, as modified as permitted herein with Owner's written approval is herein called the "Completion Schedule"). Except as expressly provided for in the Contract Documents, Construction Contractor shall not be entitled to any additional payment for overtime, which includes shift work, required to complete the Work in accordance with the Completion Schedule.

(b) If Owner requests Construction Contractor to work overtime due solely to Owner's election to accelerate the performance of the Work ahead of the Completion Schedule, Construction Contractor shall comply with the following requirements:

(i) Construction Contractor shall submit a statement of employees by name, trade, classification, hourly rate, and premiums or overtime charges worked to substantiate premium or overtime charges, in such detail as to demonstrate to Owner its correctness. These statements shall be prepared on a daily basis and shall be submitted daily for Owner's records. The rates, premiums and overtime charges shall correspond with the schedule of rates and unit costs in Exhibit F to the Agreement, which rates and unit prices include all contributions to federal and state unemployment tax and for federal insurance contributions tax required to be paid by Construction Contractor.

(ii) Owner will pay for authorized overtime work only the amounts of overtime premium wages actually paid by Construction Contractor in accordance with those set forth on the schedule of rates and unit costs attached as Exhibit F to the Agreement.

3.08 (a) Construction Contractor represents and warrants to and covenants with Owner that all materials and equipment furnished under the Contract will be new unless otherwise specified, and that all Work will be free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective by Owner. If required by Owner, Construction Contractor shall promptly furnish satisfactory samples of materials demonstrating that the materials comply with this Section. This representation, warranty and covenant is not limited by the provisions of Section 11.02 hereof related to correction of Work.

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(b) Construction Contractor warrants all Work performed and material and equipment furnished against defects and deficiencies (it being agreed by Owner that failure of any part of the Work due solely to misuse by persons other than Construction Contractor and subcontractors shall not be deemed a defect or deficiency in such part) which develop within (i) as to those portions of the Work not covered by the following clause (ii), a period of one year from final completion of the Work or if such defect is not discovered within one year from final completion of the Work, a period of one year from the time such defect should have been discovered with the exercise of reasonable diligence and in no event shall such warranty extend beyond three years from the date of acceptance of the Work and final payment by Owner; (ii) the period specified in the Contract Documents as to any part of the Work for which a period longer than one year is specified. The foregoing time limitations shall not apply to defects and deficiencies which are latent and not readily ascertainable by ordinary observation. Notwithstanding the foregoing, if Construction Contractor uses any heating, ventilating or air conditioning facilities installed as a part of the Work prior to final completion, the warranty with respect to such heating, ventilating or air conditioning facilities shall not commence until final completion of all of the Work.

(c) Construction Contractor shall require each subcontractor to execute and deliver to Owner a warranty of the Work to be performed by such subcontractor, in form satisfactory to Owner which shall equal or exceed the requirements of this Section 3.08 and any additional requirements set forth in the Contract Documents and shall otherwise be in form and substance satisfactory to Owner. Such warranty by a subcontractor shall be enforceable directly by Owner against each such subcontractor and shall be in addition to any warranty provided by Construction Contractor herein. Construction Contractor shall obtain warranties with respect to all equipment and materials and personal property supplied with respect to the Work from the respective suppliers, at least as favorable as those generally supplied with respect to such equipment, materials and personal property by the suppliers thereof and satisfying any requirements set forth in the Contract Documents, which warranties shall be enforceable directly by Owner against such suppliers and shall be in addition to any warranty provided by Construction Contractor herein or by any subcontractor. The warranties shall be executed by the respective suppliers or subcontractors not later than the date of payment to be made with substantial completion of the applicable subcontract or purchase order. Construction Contractor shall obtain such warranties from each subcontractor and deliver one executed original of each to Owner. Construction Contractor shall bind copies of warranties together in a single volume, grouped by trade and properly indexed. Owner shall have no obligation to make any payment with respect to the portion of the Work provided by any subcontractor or supplier which has not delivered the warranties required of such party.

(d) If the Contract Documents, any Government Requirements or Owner (to see if the Work complies with the Contract Documents) require any part of the Work to be tested, Construction Contractor shall give Owner not less than 48 hours' notice of the readiness of such part of the Work so that Owner may observe such testing. Construction Contractor will retain a tester satisfactory to Owner. Construction Contractor shall bear the costs of all tests required by the Contract Documents or by Governmental Requirements. If a test is not required either by the Contract Documents or by any Governmental Requirements, and if testing reveals a failure of the Work to comply with the Contract Documents, Construction Contractor shall bear all costs related to such test, including compensation for Owner's additional services made necessary by such test, and Construction Contractor shall correct such failure in accordance with Article 11 hereof; otherwise Owner shall bear such costs, and an appropriate change order shall be issued to adjust the Contract Sum. Construction Contractor shall not be relieved of Construction Contractor's obligations to perform or cause performance of the Work in accordance with the Contract Documents by reason of any errors or omissions contained in any tests performed by or for Owner, notwithstanding that such tests and the results thereof may have been delivered to Construction Contractor and that Construction Contractor may have relied upon the correctness of such tests. The fact that Owner may have provided to Construction Contractor any such tests or the results thereof, shall not relieve Construction Contractor of the obligation to assure that the Work performed by Construction Contractor is in compliance with the Contract Documents.

3.09 Construction Contractor shall procure all permits, licenses and certificates of inspection or occupancy necessary to complete the Work and occupy the Work Area, and shall deliver same to Owner promptly upon completion of the Work or at Owner's request. If any utility connection charges, tap-in fees or similar items are required to be paid as a condition precedent to the issuance of any such permits, licenses, or certificates, Construction Contractor shall notify Owner thereof and coordinate Owner's payment of such items as required by Section 2.02 in a timely manner to permit proper issuance of all permits, licenses and certificates as required hereby.

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3.10 Construction Contractor shall commence performance of its obligations under the Contract Documents upon the date set forth in the Completion Schedule for commencement of the Work or, if no such date is included in the Completion Schedule, upon execution of the Agreement by Owner and delivery to Construction Contractor of the Agreement by Owner. Construction Contractor shall, subject to adjustment evidenced by change orders, cause completion of each of the elements of the Work, including substantial completion and final completion, as set forth in the Completion Schedule. Construction Contractor shall consult with Owner on the actual progress of the Work and, if requested by Owner at any time, shall at no additional cost to Owner, submit to Owner a series of reports (at such intervals as may be requested by Owner) reflecting the progress of the Work.

3.11 Construction Contractor shall maintain at the Work Area for Owner one record copy of all current and up-to-date plans and specifications, addenda, change orders and other modifications, in good order and marked currently to record all changes made during construction, and approved shop drawings, product data and samples. No review or receipt of such records by Owner shall be a waiver of any deviation from the Contract Documents or in any way relieve Construction Contractor from Construction Contractor's responsibility to perform the Work in accordance with the Contract Documents unless such deviations are specifically noted in writing by Construction Contractor and specifically approved in writing by Owner. Construction Contractor shall furnish to Owner four complete sets of manuals containing the manufacturers' instructions for maintenance and operation of each item of equipment furnished under the Contract Documents and any additional data specifically requested under the various sections of the specifications for each division of the Work. The manuals shall be arranged in proper order, indexed and suitably bound.

3.12 (a) Construction Contractor shall procure, review, and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in any work of Owner, all shop drawings, product data and samples required by Contract Documents. Construction Contractor shall maintain an accurate record of all deviations from the plans and specifications which occur in the Work as actually constructed, and shall submit to Owner, two (2) sets (one to be reproducible) of complete information including descriptions, drawings, sketches, marked prints, and similar data, indicating the "as-built" conditions. Construction Contractor shall keep "as-built" record drawings up to date concurrently as the Work progresses. Submittal of such drawings is required prior to Construction Contractor submitting its application for final payment.

(b) Each subcontractor shall submit through Construction Contractor all shop drawings at a scale which is easily read and not smaller than 8-1/2 inches by 11 inches nor larger than 36 inches by 48 inches, and all samples and manufacturers' descriptive data. All submissions by or through Construction Contractor shall be thoroughly examined by Construction Contractor and shall clearly identify the relevant specifications section before submission to Owner, and shall bear Construction Contractor's approval stamp.

(c) All shop drawings must be dated and properly identified with the name of the Site and Work Area. Each lot submitted must be accompanied by a letter of transmittal which refers to the name of the Site and Work Area and to the specification section number for identification of each item, and which clearly states qualifications, departures or deviations from the Contract Documents, if any. For each section of the Work, shop drawings shall be numbered consecutively and the numbering system shall be retained throughout all revisions. Construction Contractor shall submit one reproducible transparency and as many prints (at least three) of each shop drawing as may be reasonably required by Owner until final acceptance thereof is obtained. Construction Contractor shall submit copies, in amounts requested by Owner, of manufacturers' descriptive data for materials, equipment and fixtures.

(d) In case a considerable range of color, graining, texture or other characteristic may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished by Construction Contractor to indicate the full range of such characteristics that will be present in the finished products. Products delivered or erected without submittal and approval of full range samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the specifications, samples shall be submitted to Owner in triplicate. All samples shall be marked, tagged or otherwise properly identified with the name of Construction Contractor, the name of the Site and Work Area, the purpose for which the samples are submitted and the date, and shall be accompanied by a letter of transmittal containing similar information, together with the specifications section number for identification of each item.

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3.13 Construction Contractor shall be responsible for seeing that structural members are not cut without prior written authority of the Building Owner/Manager and Owner. Owner's permission to patch any areas or items of Work shall not constitute a waiver of Owner's right to require complete removal and replacement of said areas or items of Work, if, in Owner's opinion, said patching does not satisfactorily restore quality and appearance of same. Any penetration of the slab of any floor shall be core drilled in accordance with procedures to be established and approved in writing by the Building Owner/Manager and Owner.

3.14 Construction Contractor at all times shall keep the Work Area and to the extent Construction Contractor is granted access, the Site, in a neat and orderly condition and free from accumulation of waste materials or rubbish caused by Construction Contractor's operations. In order to make the Work fit for occupancy for its intended purposes upon substantial completion, Construction Contractor shall remove as soon as and to the extent practicable all temporary facilities, waste materials and rubbish from and about the Work Area and, to the extent Construction Contractor is granted access, the Site, as well as all supplies, tools, construction equipment, machinery and surplus materials and leave such areas in a broom clean condition or such other condition as Owner may designate to Construction Contractor in writing prior to the date hereof. Any items damaged by Construction Contractor or its subcontractors shall be replaced, and all surfaces which have been scratched or marred shall be refinished, at no additional cost to Owner.

3.15 Construction Contractor shall pay all royalties and license fees applicable to the Work and shall not unlawfully use or install any patented article.

3.16 (a) To the fullest extent permitted by law, Construction Contractor shall indemnify, defend, save and hold Owner; its affiliated companies; Owner's Lender, if any; Owner's tenants, if any; the Building Owner/Manager, if different from Owner, Construction Manager; and the shareholders, members, partners, officers, employees of all of them (collectively the "Indemnitees") harmless from and against all loss and expense (including reasonable attorneys' fees and other costs and expenses) by reason of the liability imposed by law upon the Indemnitees, or any of them, for damages because of Construction Contractor's breach of the Contract Documents and for damages because of bodily injury, occupational sickness or disease, including death resulting therefrom, sustained by any employees of Construction Contractor or subcontractor while at the Site where Work under the Contract is being conducted or elsewhere, while engaged in the performance of Work under the Contract, or sustained by any person or persons other than employees of Construction Contractor, however such injuries may be caused, including such injuries as are caused by concurrent negligence of the Indemnitees, or any of them, whether attributable to a breach of statutory duty or administrative regulation or otherwise, and such injuries for which liability is imputed to the Indemnitees, or any of them, or claims for property damage because of injury to or destruction of tangible property (other than the Work itself to the extent the damage or injury thereto results from a loss covered by Owner's policy of builder's risk insurance, including loss of use resulting therefrom), directly or indirectly arising or alleged to arise out of the performance of or the failure to perform the Work or the failure to protect the Work or the Site, or the condition of the Work, the Site, adjoining land or driveways, or streets or alleys used in connection with the performance of the Work. Without limiting the generality of the foregoing, the defense and indemnity set forth in this Section include, subject only to the limitations contained in this Section, all liabilities, damages, losses, claims, demands and actions on account of bodily injury, death or property loss to an Indemnitee or to any other persons or entities, whether based upon, or claimed to be based upon, statutory (including workers' compensation), contractual, tort or other liability of any Indemnitee. In addition, such defense and indemnity shall include all liabilities, damages, losses, claims, demands and actions for defamation, false arrest, malicious prosecution or any other infringement of similar rights.

(b) The provisions of the indemnity provided for herein shall not be construed to indemnify any Indemnitee for its own negligence, if any, to the extent not permitted by law or to eliminate or reduce any other indemnification, right or remedy which Owner has under Contract Documents or otherwise.

(c) The obligation set forth in this Section shall, but not by way of limitation, specifically include all claims directly or indirectly alleged to arise under any scaffolding, structural work or safe place law, or any law with respect to the protection of adjacent landowners.

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(d) Construction Contractor shall be notified of any claims against any of the Indemnitees of which Owner has notice, and Owner shall give Construction Contractor such reasonable information and assistance as may be requested by Construction Contractor to perform the obligations set forth in this Section; provided, however, that (i) failure to notify Construction Contractor of any claim shall not relieve Construction Contractor of any obligations contained in this Section; and (ii) the obligation of Owner to give information and assistance shall be at Construction Contractor's expense and shall not obligate Owner to incur any expense or liability.

(e) Construction Contractor expressly understands and agrees that any performance or labor and material bond or insurance protection required by any provision of the Contract Documents, or otherwise provided by Construction Contractor, shall in no way limit the responsibility to indemnify, save and hold harmless and defend each of the Indemnitees as herein provided.

(f) Construction Contractor shall cause the foregoing indemnification agreement by Construction Contractor to be included in each subcontract between Construction Contractor and a Subcontractor and between each Subcontractor and its Subcontractors and shall be in favor of each of the Indemnitees and Construction Contractor, and at Owner's request, Construction Contractor shall provide evidence satisfactory to Owner that it has fulfilled its obligation under this Section.

(g) If any claim indemnified hereunder has not been settled or discharged when the Work is completed, final payment of the Contract Sum shall not be due, unless and until Construction Contractor provides a (i) bond issued by a bonding company satisfactory to Owner, (ii) other security acceptable in an amount equal to 150% of the amount of any such claim, including interest on such claim as estimated by Owner, or (iii) other security acceptable to Owner, which bond or other security shall be in form and substance satisfactory to Owner and shall be subject to such increase as Owner may from time to time require as interest accrues on such claim.

(h) In any and all claims against any Indemnitee or any of its agents or employees by any employee of Construction Contractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Construction Contractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

3.17 Construction Contractor will keep complete and detailed books and records which will accurately reflect costs. Such books and records and all supporting data shall, at all reasonable times and upon reasonable notice, until three years after the Work has been finally completed, be open for audit, inspection and copying by Owner and its authorized representatives. The Contract Sum shall be allocated and itemized by Contractor in accordance with Owner's cost segregation study as directed from time to time by Owner or its third party consultant to allow Owner to properly allocate each element of the Contract Sum for federal income tax purposes.

3.18 Construction Contractor shall not divulge information concerning the Contract Documents or any Work to anyone (including information in applications for permits, variances, etc.) without Owner's prior written consent. Owner reserves the right to control the release of all information relating to the Project, including the timing of any release, together with its form and content. This requirement shall survive the expiration of the Contract Documents.

3.19 If Building Owner/Manager is different from Owner, Construction Contractor agrees that:

(a) Construction Contractor shall at Construction Contractor's sole cost and expense arrange directly with Building Owner/Manager for all access to the Work Area, storage at the Site, use of elevators and other vertical transportation, temporary utilities and facilities.

(b) Construction Contractor shall at Construction Contractor's sole cost and expense comply and cause others to comply with all requirements of Building Owner/Manager with respect to the conduct of its activities at the Site, and the activities of the employees of Construction Contractor and subcontractors, so that the foregoing shall not interfere with the activities of Building Owner/Manager or other tenants of the Building.

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3.20 Construction Contractor shall include in the Contract Sum all Allowances stated in the Contract Documents. Items covered by these Allowances shall be supplied for such amounts and by such persons as Owner may direct. "Allowances" means the amounts stated to be allowances from time to time in the Contract Documents and such amounts represent the actual cost of the articles for which allowances are stated, and include any cost of hauling, cartage, supervision, preparing of work, and the cost of installing. Whenever the estimated budget cost attributable to an Allowance item is less than the actual cost of such Allowance, the Contract Sum shall be increased by Change Order to reflect such difference. Whenever the estimated budget cost attributable to an Allowance item is greater than the actual cost of such Allowance, the Contract Sum shall be decreased by Change Order to reflect such difference. In accordance with the plans and specifications, Owner will select materials or equipment for which an Allowance is provided and notify Construction Contractor of Owner's selection and price agreed upon. Construction Contractor shall contract for said materials and/or equipment and supervise their delivery and installation and be responsible for such Allowance items as fully as for other parts of the Work.

3.21 Construction Contractor shall perform all of its obligations under the standard of care of a first class contractor. All references in the Contract Documents to a "first class contractor", "fully competent first class contractor", or activities to be performed in a "first class manner" or any similar words or phrases as used in reference to Construction Contractor shall mean Construction Contractor's best skill and judgment in accordance with the practice exercised by a fully competent, first class contractor whose competence and professionalism equals that of contractors with at least ten (10) years experience in performing the work and services and constructing projects similar in scope and complexity to those required of Construction Contractor under the Contract Documents for large corporate and institutional clients in the greater metropolitan area surrounding the Project.

3.22 Owner has elected to implement an Owner Controlled Insurance Program ("OCIP") in accordance with Schedule A, attached herein, that will provide Workers' Compensation, Employer's Liability, General Liability and Excess "Umbrella" Insurance for the Construction Manager and all eligible Construction Contractors and sub-contractors of every tier providing direct labor on the Project. Owner agrees to pay all premiums associated with the OCIP including all deductibles or self-insured retentions unless otherwise stated in the Contract Documents.

The Owner will also provide, at its own cost, builder's risk coverage as outlined in Schedule A.

ARTICLE 4 SUBCONTRACTORS

4.01 Intentionally Omitted.

4.02 Construction Contractor, from time to time at the request of Owner (and in any event prior to the awarding of a subcontract or purchase order for a particular portion of the Work), shall furnish to Owner in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for such portion of the Work as Owner may designate, together with sufficient documentation for Owner to review the qualifications, capabilities and financial capacity of each such proposed subcontractor, which information shall be in the form and meet the requirements of Owner. Construction Contractor shall not allow any such proposed person or entity to whom Owner has made objection to bid on the Work. Construction Contractor shall not be entitled to an adjustment to the Contract Sum or an extension of the contract time by reason of any objection to a proposed bidder by Owner or Construction Contractor pursuant to this Section. Construction Contractor shall not unreasonably refuse to solicit bids from subcontractors designated by Owner.

4.03 Owner actively seeks out historically under-utilized businesses ("HUB's") which are qualified to fulfill Owner's requirements for goods and services purchased. If Construction Contractor meets the state or federal qualifications to be a HUB, Construction Contractor is encouraged to submit documentation supporting such status to Owner with the Agreement. Owner's Supplier Diversity Development Program ("SDDP") is committed to supporting HUBs with a focus on Minority and Women Business Enterprises and has taken affirmative steps to provide opportunities for their growth and participation in Owner's procurement process. Owner's primary suppliers, such as Construction Contractor, are asked if it is feasible and, if using subcontractors to provide Work, including labor and materials, required by Owner pursuant to the Contract Documents, to subcontract with HUBs. Owner will consider the level of Construction Contractor participation in SDDP before entering into the Agreement with Construction Contractor and in the quarterly evaluation of Construction Contractor's performance under the